

A bill for an act  
relating to public safety; providing for indeterminate sentences and lifetime  
supervision for certain first-time and repeat sex offenders, establishing a special  
review panel to make release decisions regarding these offenders, and precluding  
the subsequent civil commitment of these offenders; amending Minnesota  
Statutes 2008, sections 244.05, subdivisions 4, 5; 609.3455.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2008, section 244.05, subdivision 4, is amended to read:

Subd. 4. **Minimum imprisonment, life sentence and statutory maximum  
sentences.** (a) An inmate serving a mandatory life sentence under section 609.106 or  
609.3455, subdivision 2, must not be given supervised release under this section.

(b) An inmate serving a mandatory life sentence under section 609.185, clause (3),  
(5), or (6); or Minnesota Statutes 2004, section 609.109, subdivision 3, must not be given  
supervised release under this section without having served a minimum term of 30 years.

(c) An inmate serving a mandatory life sentence under section 609.385 must not  
be given supervised release under this section without having served a minimum term of  
imprisonment of 17 years.

(d) An inmate serving a mandatory life sentence under section 609.3455, subdivision  
3 or 4, or a mandatory statutory maximum sentence under section 609.3455, subdivision  
3b, must not be given supervised release under this section without having served the  
minimum term of imprisonment specified by the court in its sentence.

**EFFECTIVE DATE.** This section is effective August 1, 2010, and applies to crimes  
committed on or after that date.

Sec. 2. Minnesota Statutes 2008, section 244.05, subdivision 5, is amended to read:

Subd. 5. **Supervised release, life sentence and statutory maximum sentences.**

(a) The commissioner of corrections may, under rules promulgated by the commissioner, give supervised release to an inmate serving a mandatory life sentence under section 609.185, clause (3), (5), or (6); ~~609.3455, subdivision 3 or 4;~~ 609.385; or Minnesota Statutes 2004, section 609.109, subdivision 3, after the inmate has served the minimum term of imprisonment specified in subdivision 4.

(b) The commissioner shall give supervised release to an inmate serving a sentence under section 609.3455, subdivision 3, 3b, or 4, after the inmate has served the minimum term of imprisonment specified by the court in section 609.3455, subdivision 5, when directed to do so by the special review panel described in section 609.3455, subdivision 10.

(c) The commissioner shall require the preparation of a community investigation report and shall consider the findings of the report when making a supervised release decision under this subdivision. The report shall reflect the sentiment of the various elements of the community toward the inmate, both at the time of the offense and at the present time. The report shall include the views of the sentencing judge, the prosecutor, any law enforcement personnel who may have been involved in the case, and any successors to these individuals who may have information relevant to the supervised release decision. The report shall also include the views of the victim and the victim's family unless the victim or the victim's family chooses not to participate.

~~(e)~~ (d) The commissioner shall make reasonable efforts to notify the victim, in advance, of the time and place of the inmate's supervised release review hearing. The victim has a right to submit an oral or written statement at the review hearing. The statement may summarize the harm suffered by the victim as a result of the crime and give the victim's recommendation on whether the inmate should be given supervised release at this time. The commissioner must consider the victim's statement when making the supervised release decision.

~~(d)~~ (e) When considering whether to direct the commissioner to give supervised release to an inmate serving a life sentence under section 609.3455, subdivision 3, paragraph (a), or 4, paragraph (a), the commissioner special review panel described in section 609.3455, subdivision 10, shall consider, at a minimum, the following: the risk the inmate poses to the community if released, the inmate's progress in treatment, the inmate's behavior while incarcerated, psychological or other diagnostic evaluations of the inmate, the inmate's criminal history, and any other relevant conduct of the inmate while incarcerated or before incarceration. ~~The commissioner panel~~ may not direct the commissioner to give supervised release to the inmate unless:

(1) while in prison:

(i) the inmate has successfully completed appropriate sex offender treatment;

(ii) the inmate has been assessed for chemical dependency needs and, if appropriate, has successfully completed chemical dependency treatment; and

(iii) the inmate has been assessed for mental health needs and, if appropriate, has successfully completed mental health treatment; and

(2) a comprehensive individual release plan is in place for the inmate that ensures that, after release, the inmate will have suitable housing and receive appropriate aftercare and community-based treatment. The comprehensive plan also must include a postprison employment or education plan for the inmate.

~~(e)~~ (f) As used in this subdivision, "victim" means the individual who suffered harm as a result of the inmate's crime or, if the individual is deceased, the deceased's surviving spouse or next of kin.

**EFFECTIVE DATE.** This section is effective August 1, 2010, and applies to crimes committed on or after that date.

Sec. 3. Minnesota Statutes 2008, section 609.3455, is amended to read:

**609.3455 DANGEROUS SEX OFFENDERS; LIFE AND STATUTORY  
MAXIMUM SENTENCES; SPECIAL REVIEW PANEL; CONDITIONAL  
RELEASE.**

Subdivision 1. **Definitions.** (a) As used in this section, the following terms have the meanings given.

(b) "Conviction" includes a conviction as an extended jurisdiction juvenile under section 260B.130 for a violation of, or an attempt to violate, section 609.342, 609.343, 609.344, or 609.3453, if the adult sentence has been executed.

(c) "Extreme inhumane conditions" mean situations where, either before or after the sexual penetration or sexual contact, the offender knowingly causes or permits the complainant to be placed in a situation likely to cause the complainant severe ongoing mental, emotional, or psychological harm, or causes the complainant's death.

(d) A "heinous element" includes:

- (1) the offender tortured the complainant;
- (2) the offender intentionally inflicted great bodily harm upon the complainant;
- (3) the offender intentionally mutilated the complainant;
- (4) the offender exposed the complainant to extreme inhumane conditions;

(5) the offender was armed with a dangerous weapon or any article used or fashioned in a manner to lead the complainant to reasonably believe it to be a dangerous weapon and used or threatened to use the weapon or article to cause the complainant to submit;

(6) the offense involved sexual penetration or sexual contact with more than one victim;

(7) the offense involved more than one perpetrator engaging in sexual penetration or sexual contact with the complainant; or

(8) the offender, without the complainant's consent, removed the complainant from one place to another and did not release the complainant in a safe place.

(e) "Mutilation" means the intentional infliction of physical abuse designed to cause serious permanent disfigurement or permanent or protracted loss or impairment of the functions of any bodily member or organ, where the offender relishes the infliction of the abuse, evidencing debasement or perversion.

(f) A conviction is considered a "previous sex offense conviction" if the offender was convicted and sentenced for a sex offense before the commission of the present offense.

(g) A conviction is considered a "prior sex offense conviction" if the offender was convicted of committing a sex offense before the offender has been convicted of the present offense, regardless of whether the offender was convicted for the first offense before the commission of the present offense, and the convictions involved separate behavioral incidents.

(h) "Sex offense" means any violation of, or attempt to violate, section 609.342, 609.343, 609.344, 609.345, 609.3451, 609.3453, or any similar statute of the United States, this state, or any other state.

(i) "Special review panel" or "panel" means the special review panel described in subdivision 10.

(j) "Torture" means the intentional infliction of extreme mental anguish, or extreme psychological or physical abuse, when committed in an especially depraved manner.

~~(j)~~ (k) An offender has "two previous sex offense convictions" only if the offender was convicted and sentenced for a sex offense committed after the offender was earlier convicted and sentenced for a sex offense and both convictions preceded the commission of the present offense of conviction.

**Subd. 2. Mandatory life sentence without release; egregious first-time and repeat offenders.** (a) Notwithstanding the statutory maximum penalty otherwise applicable to the offense, the court shall sentence a person convicted under section 609.342, subdivision 1, paragraph (a), (c), (d), (e), (f), or (h); or 609.343, subdivision 1, paragraph (a), (c), (d), (e), (f), or (h), to life without the possibility of release if:

(1) the fact finder determines that two or more heinous elements exist; or

(2) the person has a previous sex offense conviction for a violation of section 609.342, 609.343, or 609.344, and the fact finder determines that a heinous element exists for the present offense.

(b) A fact finder may not consider a heinous element if it is an element of the underlying specified violation of section 609.342 or 609.343. In addition, when determining whether two or more heinous elements exist, the fact finder may not use the same underlying facts to support a determination that more than one element exists.

Subd. 3. **Mandatory life sentence for egregious first-time offenders.** (a) Notwithstanding the statutory maximum penalty otherwise applicable to the offense, the court shall sentence a person to imprisonment for life if the person is convicted under section 609.342, subdivision 1, paragraph (a), (c), (d), (e), (f), or (h), or 609.343, subdivision 1, paragraph (a), (c), (d), (e), (f), or (h); and the fact finder determines that a heinous element exists.

(b) The fact finder may not consider a heinous element if it is an element of the underlying specified violation of section 609.342 or 609.343.

(c) Notwithstanding the statutory maximum penalty otherwise applicable to the offense, the court shall sentence a person to imprisonment for life if the person is convicted under section 609.342, subdivision 1, paragraph (a), or 609.343, subdivision 1, paragraph (a), and the factfinder determines that:

(1) circumstances existed at the time of the act that caused the complainant to have a reasonable fear of imminent great bodily harm to the complainant or another;

(2) the actor was armed with a dangerous weapon or any article used or fashioned in a manner to lead the complainant to reasonably believe it to be a dangerous weapon and used or threatened to use the weapon or article to cause the complainant to submit;

(3) the actor caused personal injury to the complainant, and the actor used force or coercion to accomplish the act; or

(4) the actor was aided or abetted by one or more accomplices within the meaning of section 609.05, and either of the following circumstances existed:

(i) an accomplice used force or coercion to cause the complainant to submit; or

(ii) an accomplice was armed with a dangerous weapon or any article used or fashioned in a manner to lead the complainant reasonably to believe it to be a dangerous weapon and used or threatened to use the weapon or article to cause the complainant to submit.

Subd. 3a. **Mandatory sentence for certain engrained offenders.** (a) A court shall commit a person to the commissioner of corrections for a period of time that is not less

than double the presumptive sentence under the sentencing guidelines and not more than the statutory maximum, or if the statutory maximum is less than double the presumptive sentence, for a period of time that is equal to the statutory maximum, if:

(1) the court is imposing an executed sentence on a person convicted of committing or attempting to commit a violation of section 609.342, 609.343, 609.344, 609.345, or 609.3453;

(2) the fact finder determines that the offender is a danger to public safety; and

(3) the fact finder determines that the offender's criminal sexual behavior is so engrained that the risk of reoffending is great without intensive psychotherapeutic intervention or other long-term treatment or supervision extending beyond the presumptive term of imprisonment and supervised release.

(b) The fact finder shall base its determination that the offender is a danger to public safety on any of the following factors:

(1) the crime involved an aggravating factor that would justify a durational departure from the presumptive sentence under the sentencing guidelines;

(2) the offender previously committed or attempted to commit a predatory crime or a violation of section 609.224 or 609.2242, including:

(i) an offense committed as a juvenile that would have been a predatory crime or a violation of section 609.224 or 609.2242 if committed by an adult; or

(ii) a violation or attempted violation of a similar law of any other state or the United States; or

(3) the offender planned or prepared for the crime prior to its commission.

(c) As used in this section, "predatory crime" has the meaning given in section 609.341, subdivision 22.

**Subd. 3b. Mandatory statutory maximum sentence for certain particularly serious first-time offenders.** The court shall sentence a person to imprisonment for the statutory maximum period applicable to the offense if the person is convicted under section 609.342, subdivision 1, paragraph (a), (c), (d), (e), or (f); 609.343, subdivision 1, paragraph (a), (c), (d), (e), or (f); 609.344, subdivision 1, paragraph (c); or 609.345, subdivision 1, paragraph (c).

**Subd. 4. Mandatory life sentence; repeat offenders.** (a) Notwithstanding the statutory maximum penalty otherwise applicable to the offense, the court shall sentence a person to imprisonment for life if the person is convicted of violating section 609.342, 609.343, 609.344, 609.345, or 609.3453 and:

(1) the person has two previous sex offense convictions;

(2) the person has a previous sex offense conviction and:

(i) the fact finder determines that the present offense involved an aggravating factor that would provide grounds for an upward durational departure under the sentencing guidelines other than the aggravating factor applicable to repeat criminal sexual conduct convictions;

(ii) the person received an upward durational departure from the sentencing guidelines for the previous sex offense conviction; or

(iii) the person was sentenced under this section or Minnesota Statutes 2004, section 609.108, for the previous sex offense conviction; or

(3) the person has two prior sex offense convictions, and the fact finder determines that the prior convictions and present offense involved at least three separate victims, and:

(i) the fact finder determines that the present offense involved an aggravating factor that would provide grounds for an upward durational departure under the sentencing guidelines other than the aggravating factor applicable to repeat criminal sexual conduct convictions;

(ii) the person received an upward durational departure from the sentencing guidelines for one of the prior sex offense convictions; or

(iii) the person was sentenced under this section or Minnesota Statutes 2004, section 609.108, for one of the prior sex offense convictions.

(b) Notwithstanding the statutory maximum penalty otherwise applicable to the offense, the court shall sentence a person to imprisonment for life if the person is convicted of violating section 609.342, subdivision 1, paragraph (a), (c), (d), (e), or (f); 609.343, subdivision 1, paragraph (a), (c), (d), (e), or (f); 609.344, subdivision 1, paragraph (c); or 609.345, subdivision 1, paragraph (c), and the person has one or more previous or prior sex offense convictions.

(c) Notwithstanding paragraph (a), a court may not sentence a person to imprisonment for life for a violation of section 609.345, unless the person's previous or prior sex offense convictions that are being used as the basis for the sentence are for violations of section 609.342, 609.343, 609.344, or 609.3453, or any similar statute of the United States, this state, or any other state.

Subd. 5. **Life Indeterminate sentences; minimum term of imprisonment.** At the time of sentencing under subdivision 3, 3b, or 4, the court shall specify a minimum term of imprisonment, based on the sentencing guidelines or any applicable mandatory minimum sentence, that must be served before the offender may be considered for supervised release.

Subd. 6. **Mandatory ten-year conditional release term.** Notwithstanding the statutory maximum sentence otherwise applicable to the offense and unless a longer conditional release term is required in subdivision 7, when a court commits an offender

to the custody of the commissioner of corrections for a violation of section 609.342, 609.343, 609.344, 609.345, or 609.3453, the court shall provide that, after the offender has completed the sentence imposed, the commissioner shall place the offender on conditional release for ten years, minus the time the offender served on supervised release.

Subd. 7. **Mandatory lifetime conditional release term.** (a) Notwithstanding the statutory maximum penalty applicable to the offense, when a court sentences an offender under subdivision 3, 3b, or 4, the court shall provide that, if the offender is released from prison, the commissioner of corrections shall place the offender on conditional release for the remainder of the offender's life.

(b) Notwithstanding the statutory maximum sentence otherwise applicable to the offense, when the court commits an offender to the custody of the commissioner of corrections for a violation of section 609.342, 609.343, 609.344, 609.345, or 609.3453, and the offender has a previous or prior sex offense conviction, the court shall provide that, after the offender has completed the sentence imposed, the commissioner shall place the offender on conditional release for the remainder of the offender's life.

(c) Notwithstanding paragraph (b), an offender may not be placed on lifetime conditional release for a violation of section 609.345, unless the offender's previous or prior sex offense conviction is for a violation of section 609.342, 609.343, 609.344, or 609.3453, or any similar statute of the United States, this state, or any other state.

Subd. 8. **Terms of conditional release; applicable to all sex offenders.** (a) The provisions of this subdivision relating to conditional release apply to all sex offenders sentenced to prison for a violation of section 609.342, 609.343, 609.344, 609.345, or 609.3453. Except as provided in this subdivision, conditional release of sex offenders is governed by provisions relating to supervised release. The commissioner of corrections may not dismiss an offender on conditional release from supervision until the offender's conditional release term expires.

(b) The conditions of release may include successful completion of treatment and aftercare in a program approved by the commissioner, satisfaction of the release conditions specified in section 244.05, subdivision 6, and any other conditions the commissioner considers appropriate. The commissioner shall develop a plan to pay the cost of treatment of a person released under this subdivision. The plan may include co-payments from offenders, third-party payers, local agencies, or other funding sources as they are identified. This section does not require the commissioner to accept or retain an offender in a treatment program. Before the offender is placed on conditional release, the commissioner shall notify the sentencing court and the prosecutor in the jurisdiction where the offender was sentenced of the terms of the offender's conditional release. The commissioner also



shall make reasonable efforts to notify the victim of the offender's crime of the terms of the offender's conditional release. If the offender fails to meet any condition of release, the commissioner may revoke the offender's conditional release and order that the offender serve all or a part of the remaining portion of the conditional release term in prison.

Subd. 9. **Applicability.** The provisions of this section do not affect the applicability of Minnesota Statutes 2004, section 609.108, to crimes committed before August 1, 2005, or the validity of sentences imposed under Minnesota Statutes 2004, section 609.108.

Subd. 10. **Special review panel.** A special review panel is established and is governed by section 15.0575, except as otherwise provided in this subdivision. The panel consists of the commissioner of corrections or a designee and two members of the public. The term of the public members is four years. The governor shall appoint the public members with the advice and consent of the senate. Public members must be knowledgeable of and have a demonstrated interest in criminal justice but need not be employed in the criminal justice field. The commissioner shall convene the panel's first meeting. The panel shall elect a chair from among its members. The panel shall meet at the call of the chair. The panel shall hear and consider all petitions for supervised release from imprisonment under subdivision 11 and determine whether to direct the commissioner of corrections to give supervised release to the petitioner.

Subd. 11. **Petition for release; hearing.** (a) A person who was sentenced under subdivision 3, 3b, or 4 and who has served the minimum term of imprisonment specified by the court under subdivision 5 may petition the special review panel for supervised release. The panel shall hold a hearing on each petition for release before making any determination. Within 45 days of the filing of the petition, the panel shall give written notice of the time and place of the hearing before the panel to all interested parties, including the petitioner, the petitioner's attorney if applicable, law enforcement and correctional personnel involved in the case, the sentencing court, the county attorney's office that prosecuted the case, and any victims of the crime who have indicated a desire to be notified. The hearing must be recorded and held on the record. The petitioner may present witnesses on the petitioner's behalf. The county attorney who prosecuted the case, the sentencing judge, law enforcement and correctional personnel involved in the case, the victim and the victim's family members, and any other interested party may submit a written or oral statement at the hearing addressing the appropriateness of the inmate's release.

(b) If the panel votes to direct the commissioner to give supervised release to the petitioner, the commissioner shall do so no later than 14 days after the panel's determination.

(c) If the panel rejects the inmate's petition for supervised release, it shall specify in writing the reasons for the rejection. The inmate may not petition for supervised release again until 36 months have elapsed since the rejection, unless the panel specifies a shorter time period.

**Subd. 12. Criteria for release.** (a) When considering whether to order the commissioner of corrections to give supervised release to an inmate serving a sentence under subdivision 3, paragraph (c); 3b; or 4, paragraph (b), the panel shall consider, at a minimum, the following: the risk the inmate poses to the community if released, the inmate's progress in treatment, the inmate's behavior while incarcerated, psychological or other diagnostic evaluations of the inmate, the inmate's criminal history, the ability of the inmate to readjust to open society, the testimony or statements of individuals with an interest in the case made at the hearing, and any other relevant conduct of the inmate while incarcerated or before incarceration.

(b) The panel shall make a decision on directing the supervised release of an inmate sentenced under section 609.3455, subdivision 3, paragraph (a); or subdivision 4, paragraph (a), as provided in section 244.05, subdivision 5.

(c) The commissioner shall prepare a community investigation report as described in section 244.05, subdivision 5, paragraph (c), on an inmate who is petitioning for release under subdivision 11.

**Subd. 13. Administrative support.** The Department of Corrections shall provide office space and administrative support to the special review panel.

**Subd. 14. Civil commitment precluded.** A person sentenced under subdivision 3, 3b, or 4 is not subject to subsequent commitment under section 253B.185.

**EFFECTIVE DATE.** This section is effective August 1, 2010, and applies to crimes committed on or after that date.

**Sec. 4. SPECIAL REVIEW PANEL; TIME LINES FOR APPOINTMENTS.**

The commissioner of corrections shall notify the governor at least 12 months before the first inmate sentenced under Minnesota Statutes, section 609.3455, subdivision 3, 3b, or 4, reaches the end of the inmate's minimum term of imprisonment specified by the sentencing court under Minnesota Statutes, section 609.3455, subdivision 5. Within 120 days of receiving this notice, the governor shall provide the names of the governor's two public member appointments to the special review panel to the senate.